

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

| | | |
|---------------------------|---|----------------|
| UNITED STATES OF AMERICA, |) | CR 11-09-H-DWM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| ZACHARY LUTHER DAVIS, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 25, 2011. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

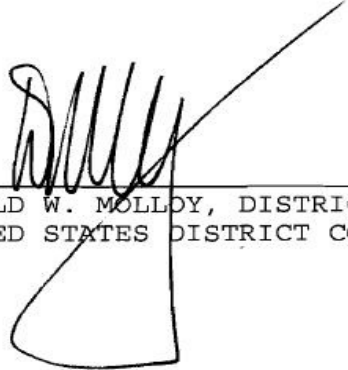
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Zachary Luther Davis's guilty plea after Davis appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) (Count II), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Count I of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 23), and I adopt them in full, including the recommendation to defer acceptance of the plea until sentencing when the Court will have reviewed the Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Zachary Luther Davis's motion to change plea (dkt # 14) is GRANTED.

DATED this 15th day of September, 2011.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT